

**Subpart E—Identification and Measurement of Countervailable Subsidies**

- 351.501 Scope.
- 351.502 Specificity of domestic subsidies.
- 351.503 Benefit.
- 351.504 Grants.
- 351.505 Loans.
- 351.506 Loan guarantees.
- 351.507 Equity.
- 351.508 Debt forgiveness.
- 351.509 Direct taxes.
- 351.510 Indirect taxes and import charges (other than export programs).
- 351.511 Provision of goods or services.
- 351.512 Purchase of goods. [Reserved]
- 351.513 Worker-related subsidies.
- 351.514 Export subsidies.
- 351.515 Internal transport and freight charges for export shipments.
- 351.516 Price preferences for inputs used in the production of goods for export.
- 351.517 Exemption or remission upon export of indirect taxes.
- 351.518 Exemption, remission, or deferral upon export of prior-stage cumulative indirect taxes.
- 351.519 Remission or drawback of import charges upon export.
- 351.520 Export insurance.
- 351.521 Import substitution subsidies. [Reserved]
- 351.522 Green light and green box subsidies.
- 351.523 Upstream subsidies.
- 351.524 Allocation of benefit to a particular time period.
- 351.525 Calculation of *ad valorem* subsidy rate and attribution of subsidy to a product.
- 351.526 Program-wide changes.
- 351.527 Transnational subsidies.

**Subpart F—Subsidy Determinations Regarding Cheese Subject to an In-Quota Rate of Duty**

- 351.601 Annual list and quarterly update of subsidies.
- 351.602 Determination upon request.
- 351.603 Complaint of price-undercutting by subsidized imports.
- 351.604 Access to information.

**Subpart G—Applicability Dates**

- 351.701 Applicability dates.
  - 351.702 Applicability dates for countervailing duty regulations.
- ANNEX I TO PART 351—DEADLINES FOR PARTIES IN COUNTERVAILING INVESTIGATIONS
- ANNEX II TO PART 351—DEADLINES FOR PARTIES IN COUNTERVAILING ADMINISTRATIVE REVIEWS
- ANNEX III TO PART 351—DEADLINES FOR PARTIES IN ANTIDUMPING INVESTIGATIONS

ANNEX IV TO PART 351—DEADLINES FOR PARTIES IN ANTIDUMPING ADMINISTRATIVE REVIEWS

ANNEX V TO PART 351—COMPARISON OF PRIOR AND NEW REGULATIONS

ANNEX VI TO PART 351—COUNTERVAILING INVESTIGATIONS TIMELINE

ANNEX VII TO PART 351—ANTIDUMPING INVESTIGATIONS TIMELINE

ANNEX VIII-A TO PART 351—SCHEDULE FOR 90-DAY SUNSET REVIEWS

ANNEX VIII-B TO PART 351—SCHEDULE FOR EXPEDITED SUNSET REVIEWS

ANNEX VIII-C TO PART 351—SCHEDULE FOR FULL SUNSET REVIEWS

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

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**Subpart A—Scope and Definitions**

**§ 351.101 Scope.**

(a) *In general.* This part contains procedures and rules applicable to anti-dumping and countervailing duty proceedings under title VII of the Act (19 U.S.C. 1671 *et seq.*), and also determinations regarding cheese subject to an in-quota rate of duty under section 702 of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note). This part reflects statutory amendments made by titles I, II, and IV of the Uruguay Round Agreements Act, Pub. L. 103-465, which, in turn, implement into United States law the provisions of the following agreements annexed to the Agreement Establishing the World Trade Organization: Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994; Agreement on Subsidies and Countervailing Measures; and Agreement on Agriculture.

(b) *Countervailing duty investigations involving imports not entitled to a material injury determination.* Under section 701(c) of the Act, certain provisions of the Act do not apply to countervailing duty proceedings involving imports from a country that is not a Subsidies Agreement country and is not entitled to a material injury determination by the Commission. Accordingly, certain provisions of this part referring to the Commission may not apply to such proceedings.

(c) *Application to governmental importations.* To the extent authorized by

section 771(20) of the Act, merchandise imported by, or for the use of, a department or agency of the United States Government is subject to the imposition of countervailing duties or antidumping duties under this part.

#### § 351.102 Definitions.

(a) *Introduction.* The Act contains many technical terms applicable to antidumping and countervailing duty proceedings. In the case of terms that are not defined in this section or other sections of this part, readers should refer to the relevant provisions of the Act. This section:

- (1) Defines terms that appear in the Act but are not defined in the Act;
- (2) Defines terms that appear in this Part but do not appear in the Act; and
- (3) Elaborates on the meaning of certain terms that are defined in the Act.

(b) *Definitions.*

(1) *Act.* “Act” means the Tariff Act of 1930, as amended.

(2) *Administrative review.* “Administrative review” means a review under section 751(a)(1) of the Act.

(3) *Affiliated persons; affiliated parties.* “Affiliated persons” and “affiliated parties” have the same meaning as in section 771(33) of the Act. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Secretary will consider the following factors, among others: Corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The Secretary will not find that control exists on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. The Secretary will consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as evidence of control.

(4) *Aggregate basis.* “Aggregate basis” means the calculation of a country-wide subsidy rate based principally on information provided by the foreign government.

(5) *Anniversary month.* “Anniversary month” means the calendar month in which the anniversary of the date of

publication of an order or suspension of investigation occurs.

(6) *APO.* “APO” means an administrative protective order described in section 777(c)(1) of the Act.

(7) *Applicant.* “Applicant” means a representative of an interested party that has applied for access to business proprietary information under an administrative protective order.

(8) *Article 4/Article 7 review.* “Article 4/Article 7 review” means a review under section 751(g)(2) of the Act.

(9) *Article 8 violation review.* “Article 8 violation review” means a review under section 751(g)(1) of the Act.

(10) *Authorized applicant.* “Authorized applicant” means an applicant that the Secretary has authorized to receive business proprietary information under an APO under section 777(c)(1) of the Act.

(11) *Changed circumstances review.* “Changed circumstances review” means a review under section 751(b) of the Act.

(12) *Consumed in the production process.* Inputs “consumed in the production process” are inputs physically incorporated, energy, fuels and oil used in the production process and catalysts which are consumed in the course of their use to obtain the product.

(13) *Cumulative indirect tax.* “Cumulative indirect tax” means a multi-staged tax levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production.

(14) *Customs Service.* “Customs Service” means United States Customs and Border Protection of the United States Department of Homeland Security.

(15) *Department.* “Department” means the United States Department of Commerce.

(16) *Direct tax.* “Direct tax” means a tax on wages, profits, interests, rents, royalties, and all other forms of income, a tax on the ownership of real property, or a social welfare charge.

(17) *Domestic interested party.* “Domestic interested party” means an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Act.